Filed 7/30/02 In re Abraham A. CA4/3

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re ABRAHAM A. et al., Persons Coming Under the Juvenile Court Law.	
ORANGE COUNTY SOCIAL SERVICES AGENCY, Plaintiff and Respondent, v. ABDELAZI and JOHAYNA A., Defendants and Appellants.	G030189 (Super. Ct. Nos. DP002666, DP002667, DP002668 & DP002669) O P I N I O N

Appeal from an order of the Superior Court of Orange County, Gary G. Bischoff, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Jennifer Mack and Rich Pfeiffer, under appointment by the Court of Appeal, for Defendant and Appellant Father.

Kate M. Chandler, under appointment by the Court of Appeal, for Defendant and Appellant Mother.

Benjamin P. de Mayo, County Counsel, and Robert G. Overby, Deputy County Counsel, for Plaintiff and Respondent.

Sharon S. Rollo, under appointment by the Court of Appeal, for the Minors.

Abdelazi and Johayna A. appeal the juvenile court's order continuing jurisdiction over their children, Abraham, age 13, Raed, age 12, and Ali, age 11.[1] They contend the order should be overturned for lack of evidence to support it and because it was made after they had already received 12 months of family services. We affirm.

* * *

Appellants are no strangers to the Orange County Social Services Agency (SSA). In the 1990's alone, SSA investigated them 11 times for allegations of physical abuse and general neglect. In June 2000, they pleaded nolo contendere to allegations they inflicted physical harm upon, failed to protect and caused serious emotional damage to their children. The allegations described an incident in which Abdelazi hit Saber in the head with a hockey stick. Another time, Abdelazi threw a coffee mug at the children's sibling Taheer. It was further alleged that Abdelazi had an unresolved drinking problem and that the family home was in a severe state of disrepair. As one of the family's caseworkers put it, "The condition of the home reflects the level of dysfunction, discord and chaos that the children have endured."

Following their initial detention at Orangewood Children's Home, the children were returned to the custody of appellants. This did not signal that all was well with the family, however. The children exhibited a variety of behavioral problems, and appellants were reluctant to accept responsibility for their actions. The court therefore ordered the children to remain under SSA's supervision as part of a family maintenance service plan. The plan required appellants to address parenting and anger issues in counseling and therapy. Abdelazi was also ordered

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[1] The juvenile court's order also applied to appellants' oldest child, Saber, age 17. However, the juvenile court's records, of which we may take judicial notice (Evid. Code, § 452, subd. (d)), indicate the court has subsequently terminated jurisdiction over him. Accordingly, we grant respondent's motion to dismiss the appeal as to his case, DP002666.

to complete an anger management program. A psychologist who evaluated the family warned that if Abdelazi "does not acknowledge the seriousness of [his] abuse and learn anger management skills, the probability that he will again abuse the children is high."

At the outset of the case, appellants made satisfactory progress on the service plan. They participated in counseling and therapy, completed a parenting class and refrained from drinking. Abdelazi also took child abuse counseling classes and enrolled in an anger management program. There were no reports of inappropriate parenting behavior. Nonetheless, appellants' therapist reported, "[T]he family continues to be very dysfunctional." Indeed, appellants acknowledged there were still many "problem areas" they had to address in caring for the children. To that end, they stipulated to continuing jurisdiction at both the six-month review hearing and the twelve-month review hearing.

Following the latter hearing, however, Abdelazi decided he no longer wanted to participate in the service plan. Rather than continuing to work on the problems that led to the children's dependency, he simply moved out of the family home. He claimed to have stayed away from the home until September 24, 2001, but he was there when social worker Melvin Mills called on September 5. That led Mills to believe appellants had conspired to circumvent the case plan.

Even more troubling to Mills was an encounter he had with Abdelazi when he made an unannounced visit to the home on September 25. Abdelazi angrily denounced the visit and told Mills, "I'm sick of you, and I'm sick of your agency interfering in my family's business. You and your agency and your judge can't make me do anything." When Mills attempted to speak with other members of the family, Abdelazi moved toward him aggressively and ordered him out of the house. At that point, Mills left because he feared for his safety.

In the wake of this incident, Mills reported, "There still exist a number of areas that cause concern for this family's future stability. [Abdelazi] appears to still have unresolved anger management issues. He is described by the previously assigned social worker as being 'extremely hostile, and verbally aggressive.' [¶] Additionally, he has not cooperated . . . in participating in required case plan components."

At the 18-month review hearing on January 14, 2002, Abdelazi reiterated his intention not to participate in the case plan. However, he claimed he had sufficiently addressed the problems leading to the children's dependency. While admitting he was abusive in the past, he did not believe he still had an anger management problem. Mills disagreed. He believed Abdelazi had failed to resolve the "underlying current of anger, which seems to be an integral facet of the family's structure." In fact, Mills considered Abdelazi's anger an "ongoing problem" which presented a risk to the children. So did the court. Citing the incident with Mills at the family home, the court found Abdelazi was still unable to control his anger. It therefore continued jurisdiction over the minors.

* * *

Appellants argue the court should have terminated jurisdiction over the case because it had already ordered 12 months of family maintenance services. The argument is not well taken.

Appellants' argument is based on Welfare and Institutions Code section 16506, which provides that family maintenance services "shall be limited to six months, and may be extended for one six-month period if it can be shown that the objectives of the service plan can be achieved within the extended time periods." Appellants maintain this section precludes the court from continuing jurisdiction past the 12-month mark, but the section says nothing about jurisdiction. It simply sets forth a limitation on the administration of family

maintenance services. As appellants do not challenge the court's decision to continue services in this case, the statute is inapt.

The controlling statute with respect to jurisdiction is Welfare and Institutions Code section 364. Subdivision (c) of that section authorizes the court to retain jurisdiction so long as the "conditions still exist which would justify initial assumption of jurisdiction under Section 300, or . . . those conditions are likely to exist if supervision is withdrawn." Subdivision (c) also states, "Failure of the parent or guardian to participate regularly in any court ordered treatment program shall constitute prima facie evidence that the conditions which justified initial assumption of jurisdiction still exist and that continued supervision is necessary." The only issue left for us to decide is whether there is insufficient evidence to support the court's decision to retain jurisdiction in this case.

"'In juvenile cases, as in other areas of the law, the power of an appellate court asked to assess the sufficiency of the evidence begins and ends with a determination as to whether or not there is any substantial evidence, whether or not contradicted, which will support the conclusion of the trier of fact.' . . . [Citation.]" (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 820.) In making this determination, we view the record in the light most favorable to the juvenile court's order and draw all reasonable inferences in its support. (*In re Basilio T.* (1992) 4 Cal.App.4th 155, 168.)

Appellants concede Abdelazi's refusal to participate in the service plan raises a presumption continuing jurisdiction was appropriate. However, they insist that presumption was overcome by other evidence in the case. We do not dispute that the record contains some evidence that is favorable to appellants. To her credit, Johayna did what was required of her under the case plan, and Abdelazi accomplished a few of the plan's goals as well. But this evidence cannot be examined in a vacuum. Rather, it must be considered in conjunction with the rest

of the facts, including those pertaining to Abdelazi's run-in with Mills at the family home.

Appellants go to great lengths to minimize—and in fact justify—this incident. First, they maintain Mills' account of the incident was "shaky" because he gave conflicting testimony as to whether Abdelazi used derogatory language toward him. Mills was uncertain as to this point, but only because he was uncertain as what constitutes derogatory language. He was not uncertain as to what Abdelazi told him or how it made him feel. Thus, there is no reason for us to question the court's implied finding that Mills was a credible witness.

Continuing their attack on Mills, appellants point out the incident at the family home occurred in the wake of the events of September 11th. They speculate this somehow caused Mills to overreact in his dealings with Abdelazi, who is Muslim. But there is nothing in the record to support this conjecture. We will not presume Mills was motivated by improper considerations in the complete absence of evidence to that effect.

Appellants further insist Abdelazi had every right to speak his mind to Mills because he was simply reacting to an unwarranted governmental intrusion into the privacy of his home. However, appellants overlook the fact it was their inappropriate parenting that brought about this case and that they agreed to unannounced home visits as part of the service plan. Even though Abdelazi eventually renounced the plan, Mills was duty-bound to follow through with the visits to ensure the minors' well being. Abdelazi's right to privacy and free speech did not give him carte blanche to act in a hostile, aggressive manner toward Mills. Nor did it preclude the trial court from considering his actions.

Nevertheless, appellants claim Abdelazi's treatment of Mills, "an adult, who is in an adversarial role to him, is not comparable to the treatment of [a] child who is a family member." In other words, appellants suggest it is all right

for Abdelazi to fly off the handle at people, so long as they are not members of his own family. This attempt to compartmentalize Abdelazi's behavior is not persuasive. The trial court could well have interpreted Abdelazi's actions towards Mills as proof he has yet to come to terms with his anger problem. This is a frightening prospect when viewed in conjunction with Abdelazi's predilection for abusing his children. Although there is substantial evidence Abdelazi made some early progress on his case plan, there is also substantial evidence he has not satisfactorily addressed the one problem that contributed most to his children being declared dependents, that being his violent temper. Accordingly, we cannot reverse the court's decision to maintain jurisdiction.

The order is affirmed.

BEDSWORTH, J.

WE CONCUR:

SILLS, P. J.

O'LEARY, J.